



# WISCONSIN FREEDOM OF INFORMATION COUNCIL

Devoted to protecting Wisconsin's tradition of open government

Sen. Van H. Wanggaard, chair  
Senate Committee on Judiciary and Public Safety  
Room 313 South  
State Capitol  
P.O. Box 7882  
Madison, WI 53707

March 19, 2019

Dear Sen. Wanggaard and members of the committee:

Thank you for this opportunity to present testimony on [SB-39](#), which will greatly expand the availability of expungement for people convicted of minor offenses. Having served on a [2006 Legislative Council committee](#) that reviewed the issue of expungement and a [2011 Legislative Council committee](#) that looked at access to court records related to expungement, I heartily agree that there is a need for change in this area of the law.

People should have the right to expunge a conviction even if they fail to ask for this at sentencing. Expanding the ability of expungement to people over 25 is a good idea. So is clarifying that an expunged case cannot be considered a conviction for employment purposes.

My sole concern with the bill, as a citizen and as an advocate for open government with the Wisconsin Freedom of Information Council, is that it will lead to more case files being sealed and the removal of more information about court outcomes from the state's online court records system, or WCCA, for Wisconsin Circuit Court Access

I know that this is being done intentionally. I know the supporters of this bill think it is essential that it become more difficult for the public to learn that these cases were ever filed. This is part of a larger pattern, which last year led to a [change in policy](#) to remove records of dismissed cases from WCCA after two years.

I have argued against the removal of this information for many years, and I would like to argue against it again now, however futilely. The purging of these records is based on the belief that the public cannot be trusted with access to this information. That is a disturbing precedent, based on assumptions that have never been substantiated by any actual research and which in fact are abundantly contradicted by the available evidence.

We are told again and again that there is a large group of people who cannot under any circumstances find

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employment because of prior criminal convictions, no matter how minor or how long ago they occurred. Let's do the math.

We are told again and again that there is a large group of people who cannot under any circumstances find employment because of prior criminal convictions, no matter how minor or how long ago they occurred. Let's do the math.

The first line of the executive summary of "[A Fresh Start](#)," Wisconsin Policy Forum's recent report in support of changes to Wisconsin's expungement laws, states: "In Wisconsin, an estimated 1.4 million individuals have criminal records, which may pose a major impediment to securing a job."

The state of Wisconsin's [has a workforce](#) of around 3.1 million people, according to the Bureau of Labor Statistics; its unemployment rate is 3 percent, or about 94,000 workers. That means 1.3 million of the 1.4 million state residents with criminal records have managed to find jobs.

Maybe that's because employers need workers. Maybe it because they are reasonable people. Maybe the vast majority of Wisconsin residents are reasonable, and will not immediately discriminate against anyone who has at some point been convicted of a crime. Maybe the whole premise of this rush to seal and remove records is faulty.

I would prefer if we could expand the availability of expungement and clarify that expunged cases cannot be considered in employment decisions without removing all record of these cases from WCCA. I would prefer that the records of these cases not be sealed. But if you cannot find a way to do that without bollixing up this whole bill, I would say as a citizen and not as an advocate for open government that you should pass this bill anyway

Just be aware that this is going to create fresh demands from other groups for similar removal. Why should traffic offenses continue to appear? Why should records of divorces — whose business is that?

And what will happen as a result of these purges is that WCCA will no longer be a comprehensive source of information about what happens in our court system. Rather, it will become more and more a compendium of guilty people — those who are unable to get their names and case information removed.

I believe the people of Wisconsin can be trusted to know the truth about what happens in our courts. They can even be allowed to know that some convictions are expunged, because a court decided that was in the

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public interest. Maybe — probably — some people *will* abuse this information. But I believe they will be the few and not the many.

Sincerely,

Bill Lueders President  
Wisconsin Freedom of Information Council

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